



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
DIVISION OF PURCHASES
One Capitol Hill
Providence, RI 02908-5855

Tel: (401) 222-2317
Fax: (401) 222-6387
TDD: (401) 222-1228
Web Site: www.purchasing.ri.gov

September 28, 2005

Dear Vendor:

The Division of Purchases has received notice that some vendors are unilaterally adding a surcharge on product deliveries or augmenting product prices, based on the volatility of the energy markets. Unless the State purchase order / contract under which your firm provides these commodities specifically allows for periodic price adjustments related to energy costs, your actions represent a breach of contract.

The State of Rhode Island historically has taken the position that a fixed price contract is, as the name implies, a legal agreement with firm pricing. A contract is an assumption of risk: a contractor assumes the risk that it can perform the duties for the price it bids, and the State has an obligation to hold its contractors to the pricing to which they mutually agreed.

That being said, any action to implement an unauthorized price increase could jeopardize the vendor's status in the Rhode Island State Procurement System. There are detailed administrative and legal actions that can be initiated by the State against those vendors that do not honor their contractual obligations.

Accordingly, those suppliers who have put the State on notice, or have unilaterally implemented price increases, must reverse their actions and credit the State for any additional costs already invoiced or paid.

Sincerely,

Brian P. Stern, Esq.
Executive Director / Purchasing Agent